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discloses each and every element of the claimed invention. *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Chevreux et al. do not teach each and every element of applicants' claim 1. Applicants' claim 1 requires 45 to 85 % by weight of tert-butyl (meth)acrylate and 1 to 30% by weight of at least one ethylenically unsaturated compound having at least one C<sub>8</sub>-C<sub>30</sub>-alkyl or -alkylene radical. Chevreux et al. concern radiation curable adhesive compositions which can comprise a monoester of acrylic acid as component ii). Acrylates are disclose in col. 2, line 66 to col. 3., line 29 of Chevreux et al. However, tert-butyl (meth)acrylate is not mentioned. Composition F in example 2 (col. 10, line 63) contains tert-butyl acrylate but only in an amount of 19.4% by weight (col. 10, lines 47-49; col. 10, line 26).

Furthermore, Chevreux et al. teach using urethane acrylate in an amount of 45-75% by weight (col. 16, l. 58; col. 4, l. 12-14) and not from 1 to 30% by weight. Also, composition F contains the urethane acrylate in an amount of 58% by weight. Lastly, the cured compositions according to Chevreux et al. are water-resistant (col. 1, line 42; col. 2, l. 35; col. 8, l. 20), whereas the cosmetic compositions of the invention comprise a water-soluble or water-dispersible polymer.

Therefore, Chevreux et al. do not anticipate the present invention.

Claims 1, 7, 8, 10 and 12 are rejected under 35 USC § 102(e) as being anticipated by Zanotti-Russo (US 6,140,435) because the reference discloses cross-linked acrylic copolymers with high thickening properties.

Anticipation can only be established by a single prior art reference which

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discloses each and every element of the claimed invention. *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Zanotti-Russo et al.'s component b) comprises 0-80 % of at least one alkyl ester of an unsaturated acid. Suitable esters are disclosed in col. 3, lines 16-20. However, applicants' tert-butyl (meth)acrylate is not mentioned. Therefore, each and every element of the presently claimed invention is not taught by Zanotti-Russo et al.

Claims 1, 5, 6, 7, and 10 are rejected under 35 USC § 103(a) as being unpatentable over Chevreux et al. (US 4,717,739) because it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the compositions of Chevreux by the use of a variety of monomeric components as taught by Chevreux to optimize the properties of the resulting compositions, as taught by Chevreux.

Claims 1, 5-8, 10, and 12 are rejected under 35 USC § 103(a) as being unpatentable over Chen et al (WP 97/00664) because Chen teaches a copolymer containing acrylic resins crosslinked with acrylated urethane oligomers and it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the compositions of Chen by the use of a variety of monomeric components as taught by Chen to optimize the properties of the resulting compositions, as taught by Chen.

Claims 1 and 7-12 are rejected under 35 USC § 103(a) as being unpatentable over Mori et al. (JP 1213221) in view of Yamamoto et al. (JP 3206024) as it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the compositions of Mori by the use of t-butyl methacrylate as a species of butyl acrylate to benefit from its contribution to lipophilicity, softness, and hairwashing properties

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as taught by Yamamoto.

Applicants respond herein to the foregoing obviousness rejections. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2143.

Applicants believe the examiner has not established a *prima facie* case of obviousness because the examiner has not shown that these three basic criteria are met. The examiner has not shown specifically **why** Chevreux et al., Zanotti-Russo, Chen a et al., Mori et al., and Yamamoto et al. should be modified. The motivation to combine must be explained by the examiner. Furthermore, regarding the above references, the examiner has not shown that there would be a reasonable expectation of success when the references are combine. This is also necessary for establishing a *prima facie* case of obviousness. For all of the cited references the examiner simply states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the compositions of in order to optimize the properties of the resulting compositions. The three criteria require more.

For the reasons expressed above, it is urged that the prior art references cited by the examiner either singly or in combination fail to anticipate or suggest the present invention as defined by the amended claims. Accordingly, a *prima facie* case of

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obviousness has not been established by the examiner, and the rejection under 35 USC § 103 should be withdrawn..

**Attached is a check in the amount of \$930.00 for the three-month extension fee.**

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such account.

Respectfully submitted,  
KEIL & WEINKAUF



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